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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,900	08/27/1999	ALVARO J. LAGUNA	MP/147	8440

7590 09/08/2003

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EXAMINER

THISSELL, JEREMY

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 09/08/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/384,900

Applicant(s)

LAGUNA ET AL.

Examiner

Jeremy T. Thissell

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Daneshvar (US 5,728,066).

Daneshvar teaches a balloon that is slidable along a catheter (col. 3, lines 21-25). Daneshvar further teaches that the balloon does not leak between itself and the catheter that it is mounted on. (col. 9, lines 40-45).

Claims 24, 25, 29, 32-34, 37, and 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraus et al (US 5,718,680).

Kraus teaches all the claimed subject matter including the balloon being attached to a non-distensible member (inner tube 21) to render the ends non-distensible, and that it can be made from polytetrafluoroethylene (PTFE). Col. 7, para 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28, 30, 31, 36, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar in view of Crocker et al (US 5,843,116).

Daneshvar teaches all the claimed subject matter except for the sleeve being coated on the ends or having a collar on the end to render the end non-distensible. Crocker teaches a balloon sleeve with a collar (40/44) to limit expansion. Crocker also teaches that alternative means can be used to limit expansion, such as coatings (col. 5, line 55-58). Since Daneshvar makes no mention of *how* his balloon ends are made to be non-distensible, it would have been obvious to one of ordinary skill in the art to use collars or coatings in the manner set forth by Daneshvar to render the balloon ends of Glickman non-distensible as these are equivalent for their use as such and the device would work equally well with any of these structural designs. To further support this point, Applicant discloses that any of these expansion-limiting elements can be used to form the instant invention. Applicant's claims and specification basically set forth all the different ways that one could reasonably render the ends of a distensible tubular structure to be non-distensible.

Claims 27 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar in view of Ravenscroft et al (US 5,766,201).

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Daneshvar teaches all the claimed subject matter except for tape wrapping the ends of the tubing to render it non-distensible. Ravenscroft teaches tightly wound tape wrapping at the ends of the balloon to render it of a different distensibility than the rest of the balloon (see fig. 1 and col. 1 line 67 – col. 2, line 5). Due to the interchangeability discussed supra and the lack of a teaching in Daneshvar of how he makes the ends of his balloons non-distensible, one of ordinary skill in the art would have found it obvious to use the tape wrapping of Ravenscroft to render the ends of the Daneshvar balloon non-distensible.

### ***Response to Arguments***

Applicant argued that Glickman requires the stops within the balloon to prevent the balloon from being slid off the catheter (or being slid onto the catheter prior to rendering the ends non-distensible). The Examiner had previously cited figure 8 (not 8A or 8B) as showing a slidable balloon without the stops. Applicant argued this point once again, and this time the examiner agrees. The specification of Glickman makes no mention of an embodiment without stops, only that this embodiment has them. It must be interpreted that figure 8 is merely a wide shot of the embodiment of 8A and 8B that simply does not show small features such as the stops.

The remaining arguments are moot in view of new grounds of rejection.

### ***Conclusion***

This action is being made **NON-FINAL** in view of new grounds of rejection.

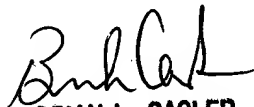
### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy T. Thissell whose telephone number is (703) 305-5261. The examiner can normally be reached on 8:30-7:00 Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached at (703) 308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jt  
August 30, 2003

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700